

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

ROBERTO THOMPSON

§

VS.

§

CIVIL ACTION NO. 1:16cv36

FRANK LARA

§

ORDER OVERRULING OBJECTIONS AND ADOPTING
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Roberto Thompson, proceeding *pro se*, filed this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. The court previously referred this matter to the Honorable Keith F. Giblin, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to 28 U.S.C. § 636. The Magistrate Judge has submitted a Report and Recommendation of United States Magistrate Judge recommending the petition be denied.

The court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the record and pleadings. Petitioner filed objections to the Report and Recommendation. The court must therefore conduct a *de novo* review of the objections in relation to the pleadings and the applicable law.

Petitioner asserts that according to Program Statements 5800.10 and 5880.30, the Bureau of Prisons may not keep an inmate confined unless it has a copy a Judgment and Commitment Order that bears the signature of the Clerk of Court or the court's seal. He states that as the Bureau does not possess a Judgment and Commitment Order for him that bears the required signature or seal, he must be released.

The Magistrate Judge concluded that while Section 2241 permits a court to issue a writ of habeas corpus if an inmate is in custody in violation of the Constitution, laws or treaties of the United States, an alleged violation of an agency's Program Statements did not provide a basis for relief. Petitioner takes issue with the Magistrate Judge's conclusion, stating that his continued incarceration violates his right to due process of law.

The court disagrees. Petitioner cites no authority that an inmate is denied due process if the Bureau of Prisons does not possess a Judgment and Commitment Order bearing either the signature of the Clerk of Court or the court's seal. Petitioner in no way asserts that the copy of his Judgment and Commitment Order that the Bureau of Prisons possesses contains any inaccurate information. Even if it assumed that there has been a technical violation of two of the Bureau's Programs Statements, this does not establish petitioner is in custody in violation of the Constitution, laws or treaties of the United States. Petitioner is therefore not entitled to relief.

ORDER

Accordingly, petitioner's objections are **OVERRULED**. The findings of fact and conclusions of law of the Magistrate Judge are correct and the report of the Magistrate Judge is **ADOPTED** as the opinion of the court. A final judgment shall be entered in accordance with the recommendation of the Magistrate Judge.

So **ORDERED** and **SIGNED** this **26** day of **July, 2016**.

A handwritten signature in black ink, appearing to read "Ron Clark", is written above a horizontal line.

Ron Clark, United States District Judge